IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

TAX APPEAL No. 280 of 1999

For Approval and Signature:

HONOURABLE MR.JUSTICE ANIL R. DAVE
HONOURABLE MR.JUSTICE Z.K.SAIYED

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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LAKHANPAL NATIONAL LTD. - Appellant(s)
Versus
INCOME TAX OFFICER - Opponent(s)

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Appearance :
MR MJ SHAH for Appellant(s) : 1,
MR KM PARIKH for Opponent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE ANIL R. DAVE

and

HONOURABLE MR.JUSTICE Z.K.SAIYED

Date : 12/12/2007

ORAL JUDGMENT

(Per : HONOURABLE MR.JUSTICE ANIL R. DAVE)

1. In this appeal, after hearing the learned advocates, as suggested by the learned advocate for the appellant, the following substantial question of law is being framed.

> “Whether, on the facts and in the circumstances of the case, the tribunal was right in law in holding that the appellant was not entitled to investment allowance under Section 32A read with Section 43A(1) and Section 43 of the Income-tax Act, 1961 in respect of the additional cost of Rs. 44,37,798/- or any part thereof which it suffered in rupee term because of the fluctuations in the conversion rate of foreign exchange?”

2. We have heard learned advocate Shri M.J. Shah appearing for the appellant and learned advocate Shri K.M. Parikh appearing for the respondent. The learned advocates have submitted before this Court that in the case of **CIT v. Gujarat State Fertilizers Co. Ltd.,** 259 ITR 526, the full Bench of this High Court has already rendered its opinion on the question of law involved in this appeal.

3. In the light of this undisputed legal position it is held that the assesssee is entitled to investment allowance in respect of additional cost suffered by it due to exchange rate fluctuation. The orders of the Tribunal and the lower authorities are

quashed and set aside in relation to the aforesaid question. The Assessing Officer shall pass appropriate order for giving effect to this judgement.

4. The appeal is allowed accordingly with no order as to costs.

(ANIL R. DAVE, J.)

(Z.K. SIAYED, J.)

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